IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1607 of 2006

M/s.Creative Garments Ltd. .. Petitioner

versus

Mr.Kishor Varma & Anr. .. Respondents

...

Mr.V.P. Vaidya a/w A.M. Nathani for the petitioner.

Mr.Rajesh Gehani for the respondents.

CORAM : D.G. KARNIK, J

DATED : 6th July 2006.

P.C.:

1. This Writ Petition is directed against the award dated 28th October 2005 passed by the Labour Court, Mumbai directing reinstatement of the respondent no.1.

2. Counsel for the petitioner submitted that the respondent no.1 had resigned the services by resignation dated 21st April 1997 and there was no

illegal termination. The Labour Court has held that the alleged letter of resignation dated 24th April 1997 was not submitted by respondent no.1 and did not bear his signature.

3. With the help of learned counsel for the petitioner, I have perused the evidence. Respondent no.1 had denied on oath his signature and denied that he ever submitted the letter of resignation dated 21st April 1997. The two witnesses examined by the petitioner did not say that the letter of resignation was signed in their presence and stated that letter of resignation was given to the Manager, Ashok Agarwal who forwarded it to them. Ashok Agarwal was not examined as a witness by the petitioner. If the letter of resignation was signed before Ashok Agarwal, he ought to have been examined to prove the signature on the letter. The Labour Court has appropriately drawn adverse inference for not examining Mr.Ashok Agarwal.

4. The finding recorded by the Labour Court is thus not only a possible finding but in my view, a probable finding of fact. No interference is called for in exercise of a writ jurisdiction. Petition is rejected summarily.

(D.G. KARNIK, J)